

Mumia Abu-Jamal, rights groups sue over Pennsylvania’s “Mumia Law”

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On Monday, prisoner and activist Mumia Abu-Jamal, along with other prisoners and several human rights groups, filed a lawsuit challenging Pennsylvania’s recently enacted Revictimization Relief Act (RRA), a law aimed at silencing those convicted of crimes and those who publish their speech.

Attorney Bret Grote, Executive Director and co-founder of the Abolitionist Law Center, a public interest law firm, prepared the 32-page complaint, which alleges that the “Mumia Law” violates the First Amendment of the US Constitution’s guarantee of freedom of speech, as well as a similar provision in the Pennsylvania Constitution stating that, “every citizen may freely speak, write and print on any subject.”

The RRA allows a crime victim “to obtain injunctive and other appropriate relief, including reasonable attorney fees and other costs associated with the litigation, for conduct which perpetuates the continuing effect of the crime on the victim.”

Mumia Abu-Jamal is the victim of a police frame-up and show trial. He was charged in the death of Philadelphia police officer Daniel Faulkner in 1981. He has spent a third of a century in prison, including thirty years on death row. A court vacated the death sentence in 2011 and he was removed from death row in 2012.

Right-wing elements in the Pennsylvania state legislature promoted the “Mumia Law” when they learned that Abu-Jamal would be giving a commencement address at Vermont’s Goddard College, via a recorded telephone call, in October. As we noted, the address had nothing to do with Abu-Jamal’s conviction or alleged homicide, and generally called on the graduating students to challenge social wrongs.

Police groups, far-right politicians and “victim’s rights” advocates responded with a barrage of anti-democratic vitriol. This culminated in passage of the “Mumia Law” in the Pennsylvania legislature—the lower house supported the measure 197 to 0—followed by a provocative signing ceremony, where Governor Tom Corbett and Daniel Faulkner’s widow denounced Abu-Jamal’s activism at the site of Faulkner’s death.

Below, we publish an interview with attorney Bret Grote with the Abolitionist Law Center, lead attorney for the plaintiffs.

WSWS: How do you anticipate the lawsuit developing at the District Court level and later on? Are you confident the

plaintiffs will succeed, given the current makeup of the courts?

Bret Grote: We have requested an injunction to invalidate the law because we are as solid as you can get on First Amendment grounds. This law regulates speech on the basis of the identity of speaker and on the basis of content. It’s completely unconstitutional.

In the legislative committee hearings, they [proponents of the bill] said they would consider Abu-Jamal’s lack of remorse for the crime he did not commit to be sufficient evidence to prove that he was trying to “revictimize” the officer’s family. There is no recognized “remorse exception” to the First Amendment. The state can’t compel speech in that manner.

Also, the law makes the mental state of the victim open to discovery. It becomes an issue at trial, putting the victim in the heart of the case. It just proves to me that the law has nothing to do with helping victims of crimes.

WSWS: What stood out to me on reading the RRA is how broad it is.

BG: It is overly broad. As far as we can tell, it *only* penalizes *lawful speech*. If Mumia or another inmate is actually harassing or stalking a crime victim, there are already laws against these things. Our opponents say that it doesn’t ban speech, it just gives a judge absolute discretion to determine what speech is allowed. Of course, in First Amendment jurisprudence this type of unbounded judicial discretion is completely unheard of.

WSWS: What has been the role of the Fraternal Order of Police [FOP] ?

BG: They drive it in large part. They have enormous political clout in Pennsylvania. I am of the opinion that they are using Mumia to reestablish a propaganda line about police protecting good people against thugs who hate America and want to rob them and who happen to be black. The image of the police was wounded post-Ferguson. There was a major outcry.

Part of this is a power grab: they feel threatened by constitutionally protected speech that challenges their rule, if only certain methods of it. They want no challenge to mass incarceration or police killing. They [the FOP] have never had any problem getting what they want in Pennsylvania and that’s why you have the House of Representatives voting for this unanimously.

In a system that values property more than people in many cases, and values people differently depending on color and class, seeing someone gunned down in the street touches a nerve within the American psyche. The police recall the uprisings in the late 1960s. These all started with police killings, some boy is shot and then people say, enough is enough and people rebel. So one thing they [the FOP] can do is shut down speech.

WSWS: You mentioned the vote in the State House of Representatives, 197-0. That includes a huge number of Democrats who signed onto this law.

BG: Of course. It's another example of how both parties support the police state to the hilt and are afraid of being seen as not supporting it.

WSWS: Is the RRA a response in part to the developments in Ferguson?

BG: The response to Ferguson is much more careful than this sloppy piece of legislation, which a first-year law student could have done a better job of drafting, and a very average first-year law student at that.

Ferguson is a dynamic that needs to be understood. The state has been waging a preemptive counterinsurgency since the 1980s. That is what mass incarceration is. There is already a substantial apparatus in place that's been built up for decades. Maybe they overstepped in Ferguson, tactically. People were shocked at the use of force, how large it was, but most of the people in power approve of this.

WSWS: How would you characterize the First Amendment issues in this lawsuit? Can Mumia do or say anything that would not be forbidden by the RRA?

BG: That's exactly why we attached his Goddard commencement address in the complaint as an exhibit. The judge will see that it is not a call to arms, or what have you.

WSWS: The speech was basically a call for graduates to make the world better. How does that "perpetuate the continuing effect of the crime on the victim"?

BG: I don't see how reminiscing about the trees and landscape at Goddard College causes mental anguish. In fact, if you look at what Maureen Falkner [widow of the police officer Abu-Jamal is accused of killing] says, she says the only thing she wants to hear from Abu-Jamal is a confession, after which he could conceivably speak freely.

The whole law is so bizarre. It tries to regulate communication between person A and person B, where person A never directed any conduct or speech to person B. I can't think of any other law like that. The speech only impacts another person when they go out of their way to make it their business.

WSWS: Can you comment on the background that leads up to this "Mumia Law"? Does this background shed light on the law's intent?

BG: Certainly, the FOP have been trying to silence Mumia relentlessly, going back to the 1990s with the publication of

Live From Death Row [a book authored by Abu-Jamal], when they harassed the publisher of the book, Addison-Wesley, flying a plane by their corporate headquarters with a banner saying they supported cop killers.

Some of this is specific Pennsylvania politics with Mumia. They can't stop trying to silence him. They failed with the executioner's needle, so now they are trying to impose social death. If the current law doesn't work, they'll try another law or other ways to make him anathema.

They tried to silence him at the prison level in the 1990s, saying he was breaking prison rules by running a business from his cell.

WSWS: What happened in that case?

BG: A three-judge panel found for him. It included [Samuel] Alito [current right-wing US Supreme Court Justice], who gave him preliminary injunction, finding that the regulation served no penological interest. He won this issue in a prison regulation context under the rational basis standard [the most favorable standard of review for a state actor in a First Amendment case]. Now they are seeking more power in a statute that will face much higher scrutiny.

The elite are playing the victim's card and going after Mumia as representing everything they fear.

WSWS: Do you anticipate the Obama administration getting involved in this lawsuit on either side?

BG: Probably not. I would just say that Obama represents the liberal end of a rebranding of the "tough on crime" mantra. Now it's "smart on crime." Politicians like him are tinkering with the machinery of torture and death in minor ways without changing the fundamentals in politics or economy. They are opposed by a growing movement coalescing against mass incarceration that will not be satisfied with the piecemeal reform from major parties.



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